OFFICE OF THE

Ombudsman

NATURAL JUSTICE • ADMINISTRATIVE FAIRNESS • INDEPENDENT REVIEW

36TH ANNUAL REPORT

FOR THE PERIOD APRIL 1, 2002 TO MARCH 31, 2003

LEGISLATIVE ASSEMBLY
PROVINCE OF ALBERTA

Office of the Ombudsman

November, 2003

The Honourable Ken Kowalski
Speaker of the Legislative Assembly
325 Legislature Building
Edmonton, Alberta
T5K 2B6

Mr. Speaker:

The Office of the Ombudsman is pleased to present its 36th Annual Report to you and, through you, to the Legislative Assembly.

This Report has been prepared in accordance with section 28(1) of the *Ombudsman Act* and covers the activities of the Office of the Ombudsman for the period April 1, 2002 through March 31, 2003.

Respectfully,

G.G.S. (Scott) Sutton
Ombudsman

104-02488/

Vision

The Office of the Ombudsman is the recognized standard of independent review for administrative fairness.

Mission

The Office of the Ombudsman promotes fairness in public administration within the Government of Alberta.

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Message from the Ombudsman

I am pleased to present my fifth and final annual report as Ombudsman for Alberta. The year 2003 brought to a close my career as Ombudsman for the Province of Alberta and I would like to welcome Gord Button who will be appointed Alberta's seventh Ombudsman on September 15, 2003. As one departs this commendable institution, it is time to pause and reflect over the many accomplishments of the Office during the past five plus years. First and foremost, I would like to acknowledge my staff and thank them for their support and contributions. To bring one investigation to a successful close takes the combined efforts of a number of people. The office of the Alberta Ombudsman is well staffed, well trained and able to move forward with expected change. New, exciting, expanded responsibilities await Mr. Button, and with the support of staff, all Albertans will be well served.

Throughout my **tenure** as **Ombudsman**, I was encouraged to find a genuine willingness by the majority of decision-makers to **"right the wrong"** in dealing with issues of administrative unfairness.

During my tenure, I aggressively sought amendments to the *Ombudsman Act* in an effort to respond to responsibilities entrusted to me and more importantly to bring forward legislation that is current and consistent with the way business is conducted today. In my last annual report, I spoke of expanded jurisdiction, how we had moved forward with some additional responsibilities and how we had stalled with others. At this time, I am most pleased to report that resolution has been achieved and with the royal assent and enactment of the *Ombudsman Amendment Act*, the Office of the Ombudsman is well positioned to move forward and meet the challenges and demands expected of it. The amendment journey to the *Ombudsman Act* has been a long process, involving many players.

Consensus was achieved, and I thank all those who contributed and assisted in bringing forward this much needed legislation.

With successes, there are also disappointments. As I reported last year, a Ministerial investigation into the administration of the *Protection for Persons in Care Act* was halted after the Minister of Community Development established a legislative review committee, entrusted to look at all aspects of the Act. This review was well intentioned and well meaning, but unfortunately the process is slow and little has changed to this point. Complaints are still being received and investigated with the full knowledge that systemic issues of administrative unfairness continue. I am hopeful there will be much needed change during the forthcoming year.

This year saw a slight upward trend in the number of written complaints received, a change from preceding years. We are nowhere near the high numbers of a decade ago, and I view the overall decrease as a measure of success. The true idealistic goal of any Ombudsman is to have the bureaucracy respond in such a manner as to have no concerns at all raised by citizens. I am realistic enough to know that will never happen, however, one might view the number of complaints received by the Ombudsman as a barometer of public discontent with the 'system.'

Throughout my tenure as Ombudsman, I was encouraged to find a genuine willingness by the majority of decision-makers to "right the wrong" in issues of administrative unfairness. There will always remain the potential for error and mistake when one considers the magnitude and complexity of government and private sector services extended to citizens. I have found when instances of administrative unfairness are identified and presented in a logical, common-sense manner to those who have made the decision, there has been little resistance to implementing corrective change. This is significant, as mistakes can and will happen, however, we generally received good co-operation when those mistakes were identified.

I have been most fortunate to serve Albertans for the past five years. It has been a period of personal growth and great satisfaction. Some time ago I was asked on

Message from the Ombudsman

a radio talk show what was the most important investigation that my Office had conducted during the past year. My response was that every investigation was the most important. Some may attract more media attention than others, but for all people who seek the help of the Ombudsman, their individual concerns are the most important. Although some issues involving the Ombudsman may become large, it is the individual citizen who forms the very essence of the Ombudsman's Office. A recent letter received by my Office exemplifies this: *"I am writing you today just to say thank you from the very bottom of my heart. I really appreciate all the work, time and dedication you put into resolving my grievance."* Being able to help and make a difference is reward enough.

I will miss the contact, the work and the relationships that have grown over the years, but it is time to move on. I wish Gord Button all the success in his endeavors and I know the citizens of this great province will continue to be served well by the wonderful institution known as the Ombudsman's Office. Thank you to all.

G.G.S. (Scott) Sutton

Amendments to the Ombudsman Act

Although the Office of the Ombudsman has operated effectively for over 30 years, the way in which government is conducting business is changing. This is particularly evident in the practice of delegating services normally provided by government. The jurisdiction of the Ombudsman, as presently established in the *Ombudsman Act*, does not extend to all the changing ways government is handling its business. To remain an effective watchdog of administrative fairness in government, it became necessary to amend the *Ombudsman Act* to align the jurisdiction of the Ombudsman with current government practices.

To remain an effective **watchdog** of administrative **fairness** in government, it is necessary to amend the Ombudsman Act to **align the jurisdiction** of the Ombudsman with current government practices.

Bill 21, the *Ombudsman Amendment Act*, recently received royal assent in the legislature. The bill will ensure the provincial Ombudsman has the legislative tools to properly review complaints about the administrative actions of provincial government departments and their associated boards and agencies. Under the *Ombudsman Amendment Act*:

- An original written complaint will be treated as consent to release the client's own information to the Ombudsman for investigation. It removes the need for the Ombudsman to obtain two documents from the client - the original complaint and separate written consent to access information.
- The definition of "agency" has been expanded to include those bodies named in a regulation. This will help ensure the law clearly states who is and who is not under the jurisdiction of the Ombudsman. It will ensure the Ombudsman retains the historical jurisdiction as well as the jurisdiction to investigate complaints about government services contracted to the private sector.

- The Ombudsman may consult with the head of an agency involved in an investigation so the official remains apprised of the Ombudsman's investigation as it proceeds.

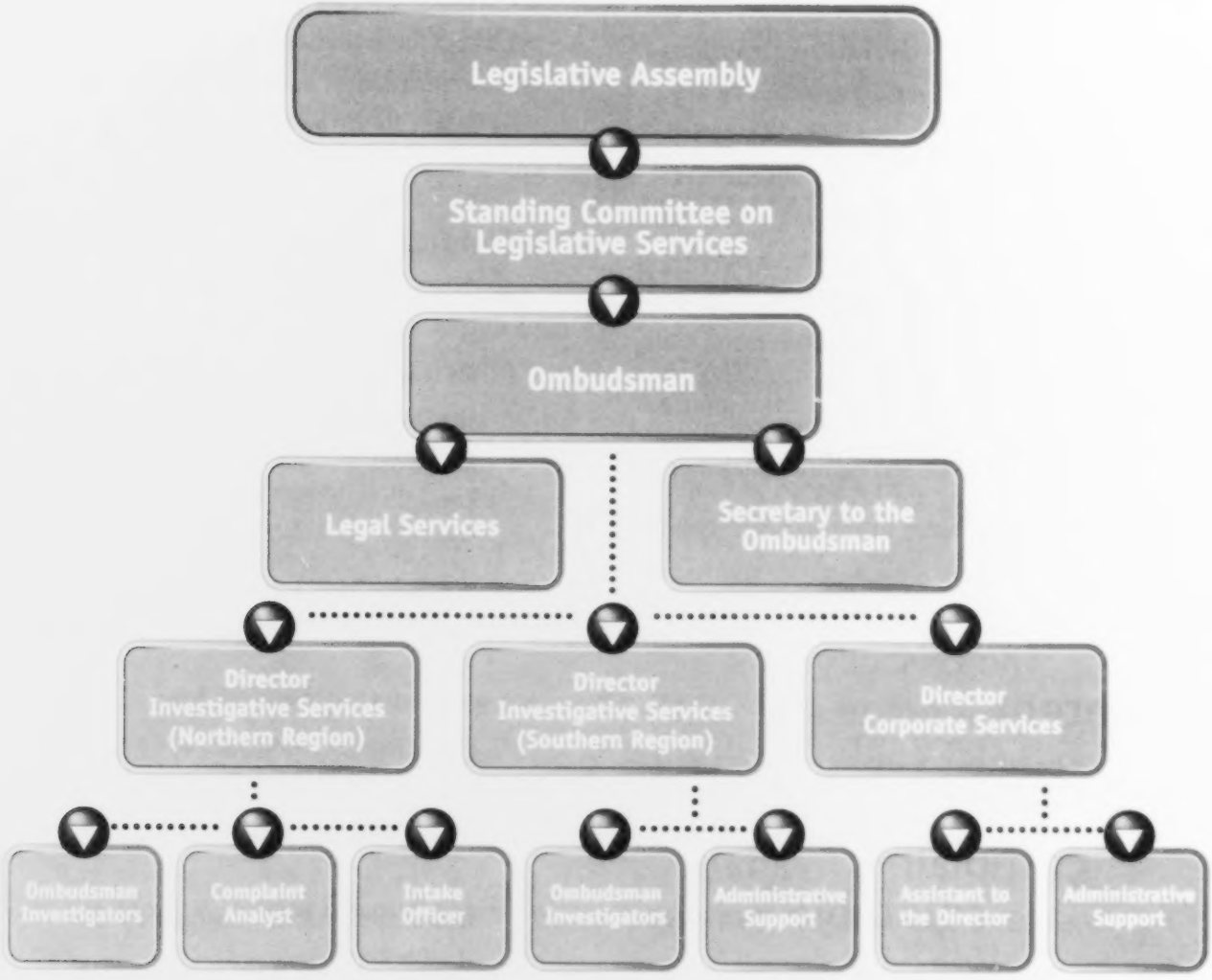
- The Ombudsman may also acquire personal information from third parties if directly related to the complaint. This is necessary so the Ombudsman can access all information required to fully examine the complaint.

- The Ombudsman's jurisdiction includes the complaint resolution processes of regional health authorities, the Alberta Cancer Board and the Alberta Mental Health Board.

- Agencies, departments or other professional organizations (including administrative tribunals) may implement recommendations of the Ombudsman if that body chooses to do so – this includes situations where the decision process is final and binding.

Overview

CORPORATE STRUCTURE



INVESTIGATIVE SERVICES

The Ombudsman for the Province of Alberta is appointed by the legislative assembly to receive, investigate and resolve complaints from individuals adversely affected by any administrative act, omission or impropriety of the Alberta public service. Independent of government, the Ombudsman is an impartial investigator, providing a third-party review process for administrative decisions of the provincial government. The Ombudsman's intent is not to affix blame or impose penalty but rather to resolve complaints in a fair and equitable manner.

The Ombudsman's **intent** is not to affix blame or impose penalty but rather to **resolve complaints** in a **fair** and **equitable** manner.

The Ombudsman:

- Conducts investigations for people who are directly affected by an administrative decision, act, omission, or recommendation of an Alberta government department, board, agency or commission.

- Possesses the authority to launch investigations stemming from:

  - an *"own motion investigation"* when the Ombudsman, on his own initiative, decides to investigate an issue;

  - a referral from a committee of the legislative assembly or a minister of the Crown.

- Serves as a third-party review mechanism for citizens who have complaints about professional bodies, most notably:

  - health professions governed by the *Health Professions Act*. Examples of health professions include dentists, nurses, doctors, psychologists and physical therapists.

Overview

- accounting professionals under the *Regulated Accounting Profession Act*.

- professional foresters and professional forest technologists per the *Regulated Forestry Profession Act*.

- Is an impartial complaint mechanism of last resort, meaning an individual must exhaust all available appeals prior to writing to the Ombudsman with a complaint.

- Submits recommendations to correct incidents of maladministration.

The Ombudsman does not:

- Investigate complaints involving the courts, members of the legislature or government lawyers while they appear in court.

- Examine complaints regarding private matters.

- Investigate complaints against the federal government.

- Investigate complaints about municipalities, universities or schools.

- Possess remedial authority – the Ombudsman's influence is restricted to the power of recommendation.

INFORMATION AND REFERRAL SERVICES

Equally important to the investigative function is the role the Office plays as a complaint clearinghouse. The Office assists in directing people to the appropriate contact, department or other complaint mechanism for complaints outside the Ombudsman's jurisdiction to investigate.

LEGAL SERVICES

Legal services perform all necessary legal functions for the Office of the Ombudsman. This includes research, interpretation and legal opinion as it relates to both jurisdictional and investigative issues.

CORPORATE SERVICES

Corporate services is comprised of seven functional areas – Business Planning, Financial Management, Human Resources, Information Technology, Communications, Corporate Support and Freedom of Information and Protection of Privacy.

Business Planning – provides strategic guidance to deliver the Ombudsman's program initiatives in an effective, timely and consistent manner. Sound business goals and practices are developed, analyzed and compiled into a three-year business plan.

Financial Management – develops and implements financial systems, policies and procedures to ensure consistent, equitable and effective allocation of resources to support the operational needs of the Office. Directs the Office's fiscal planning, monitoring, reporting and budgetary functions within an accountability framework consistent with the *Financial Administration Act* and the *Government Accountability Act*.

Human Resources – administers all human resource functions for the Office including: recruitment; classification; occupational health and safety; employee relations; pay and benefits management; fee-for-service contract administration and employee development.

Information Technology – oversees and directs automated system design, development, operational support and maintenance of information technology. Co-ordinates and oversees technical experts, contractors, key government technical infrastructure support and electronic data communications. Develops and recommends strategic direction for information technology initiatives to enhance program delivery. Oversees the resolution of all system and user problems.

Communications – co-ordinates the communication/information requirements of the Office including the development and production of the annual report, promotional/informational materials, media releases, and press briefings. Develops, reviews and upgrades the Ombudsman's external web site.

Overview

Corporate Support – provides leadership and direction to ensure the smooth, accurate and timely output of all documents in support of program delivery. Develops and implements administrative systems, processes and practices including data processing, records management, purchasing, property management, contract service management, telecommunications, inventory control and security.

Freedom of Information and Protection of Privacy – performs all duties associated with the role of the Freedom of Information and Protection of Privacy Coordinator. Serves as a consultant to ministries regarding the legal interpretation of the *Freedom of Information* and *Protection of Privacy Act* as it specifically pertains to the Office of the Ombudsman.

FINANCIAL STATEMENT OF OPERATIONS

For the Year Ending March 31, 2003

	2003 Budget	2003 Actual	2002 Actual
Expenses			
Salary, wages, and employee benefits		$ 1,277,599	$ 1,180,626
Supplies and services		325,960	263,101
	$ 1,829,000	$ 1,603,559	$ 1,443,727
Valuation Adjustment			
Provision for Vacation Pay		(26,483)	32,638
		$ (1,577,076)	$ (1,476,365)

Statistical Analysis

STATISTICAL COMMENTARY

While the total number of complaints received over the past year remains relatively constant, the distribution of those complaints has seen a notable shift. An upward swing in written complaints has met with a corresponding decline in oral complaints.

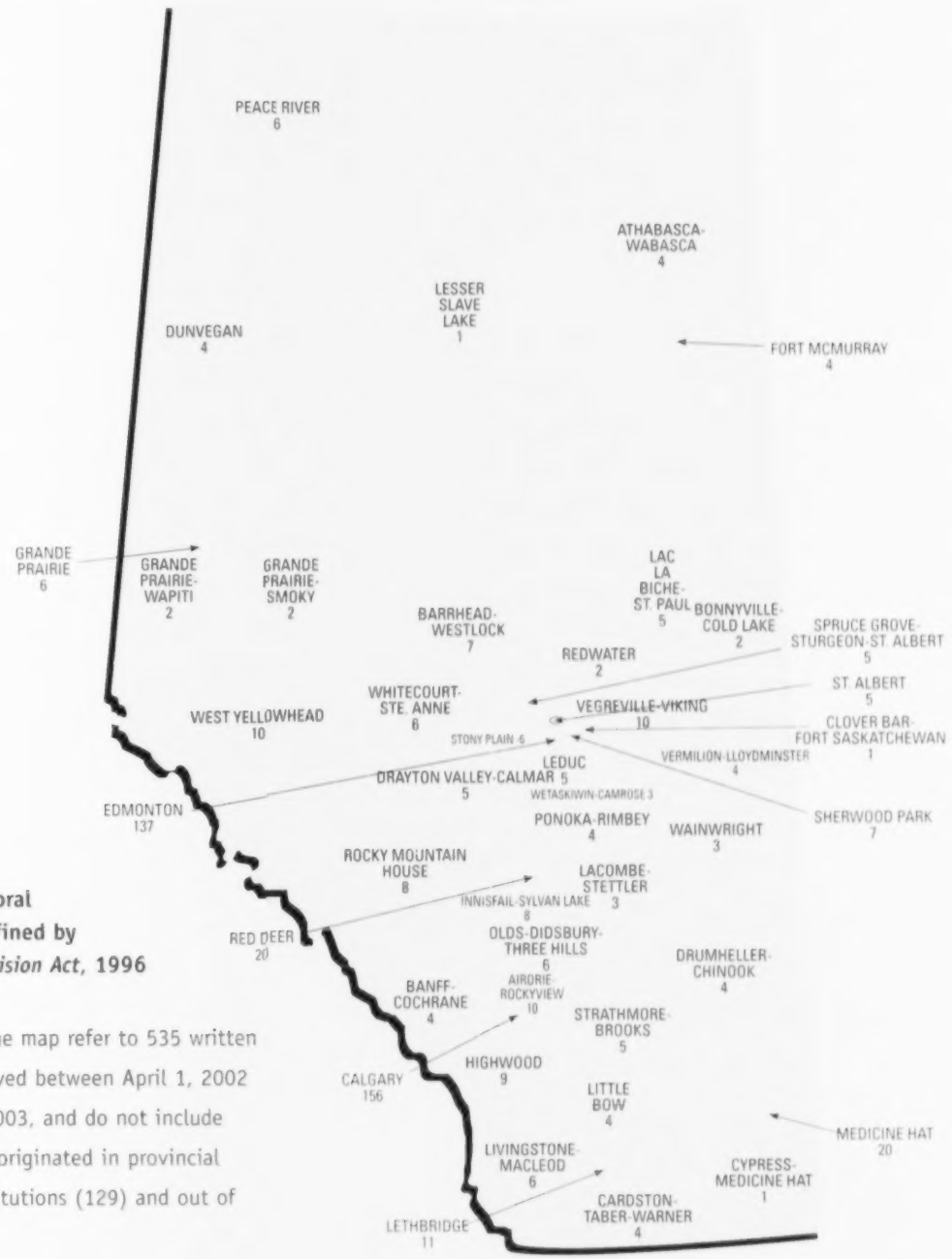
Investigations originate from a written letter of complaint. Not all letters lead to an investigation: the matter must fall within the jurisdiction of the Ombudsman for an investigation to occur. Also, all available appeals must first be exhausted. Of the 628 jurisdictional letters of complaint received, 323 investigations were initiated. The number of investigations opened rose 21 percent over the previous year.

Certain government **programs**, by the very nature of the service provided, **generate** a substantial number of clients which in turn can result in an **increased** number of **complaints**.

The Office of the Ombudsman investigates complaints against departments, boards, agencies and commissions of the Alberta government. The Solicitor General received the highest number of complaints followed closely by Human Resources and Employment. This does not mean these government bodies are providing a lower level or poor service. Rather, these authorities provide user-dependent, people oriented programs which serve large, diverse segments of the population. For example, the Solicitor General is responsible for all correctional facilities in the province. Human Resources and Employment provides financial aid to Albertans in need and assists people to prepare for and secure employment. Certain government programs, by the very nature of the service provided, generate a substantial number of clients which in turn can result in an increased number of complaints.

The number of investigations closed rose by 13 percent - an additional 39 investigations were completed compared to last year. Of the investigations concluded, 25 percent of the complaints resulted in either full or partial support for the complaint and the remaining 75 percent were unsupported.

TABLE 1: GEOGRAPHIC LOCATION OF COMPLAINTS



Provincial Electoral Divisions as Defined by the *Electoral Division Act*, 1996

The figures on the map refer to 535 written complaints received between April 1, 2002 and March 31, 2003, and do not include complaints that originated in provincial correctional institutions (129) and out of province (54).

Statistical Analysis

TABLE 2: ANNUAL NUMBER OF COMPLAINTS RECEIVED BY YEAR

YEAR	NUMBER OF WRITTEN COMPLAINTS	NUMBER OF ORAL COMPLAINTS	TOTAL NUMBER OF COMPLAINTS RECEIVED
1993	1,030	9,319	10,349
1994	1,082	8,304	9,386
1995	1,021	7,986	9,007
1996	956	7,334	8,290
1997	748	5,771	6,519
1998	805	5,280	6,085
January 1, 1999 to March 31, 2000	983	6,314	7,297
2000/2001	650	6,665	7,315
2001/2002	552	4,693	5,245
2002/2003	718	4,446	5,164

TABLE 3: ORAL COMPLAINTS RECEIVED

April 1, 2002 through March 31, 2003
Total oral complaints: 4,446

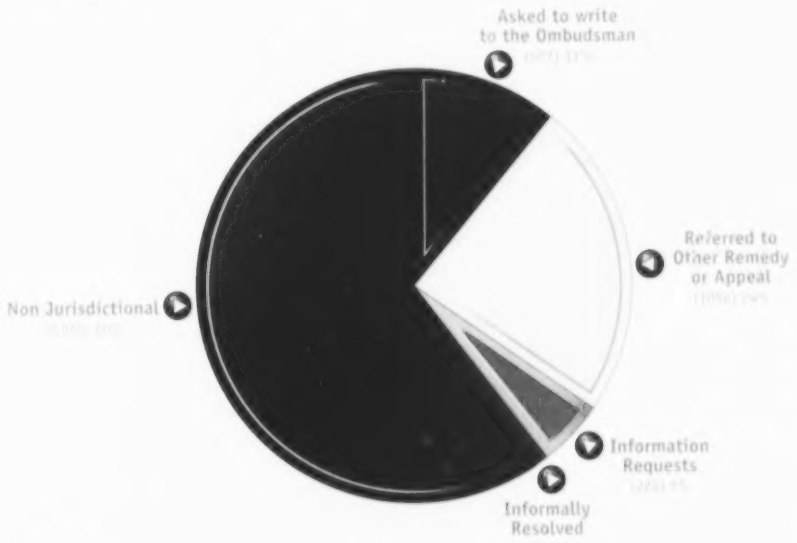
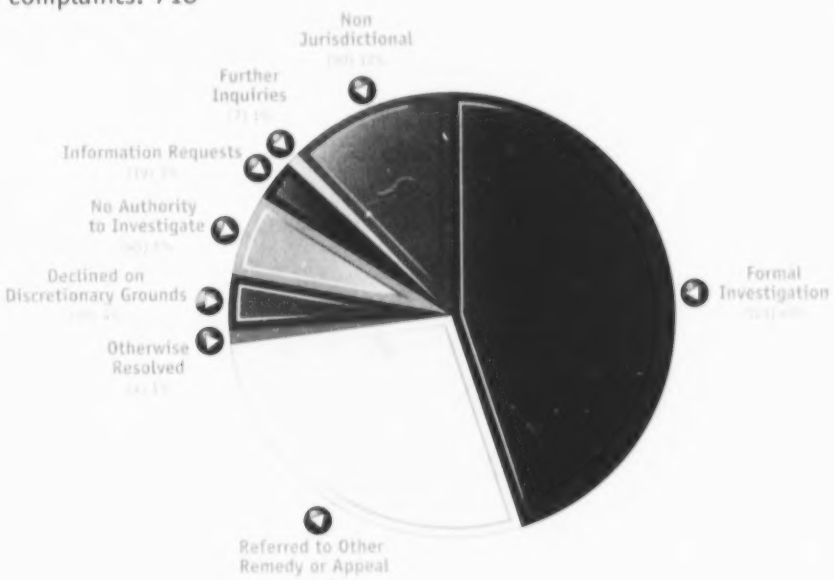


TABLE 4: WRITTEN COMPLAINTS RECEIVED

April 1, 2002 through March 31, 2003
Total written complaints: 718



Statistical Analysis

TABLE 5: ACTION TAKEN ON JURISDICTIONAL FILES CLOSED

April 1, 2002 through March 31, 2003

Files Carried Over From Previous Years			**150**
Files Opened During 2002-2003			**628**
			778
Total Investigated		**340**	
Supported	37		
Partially Supported	46		
Unsupported	222		
Discontinued	35		
Total Not Investigated		**299**	
Information Requests	24		
Referred to Other Remedy or Appeal	198		
Otherwise Resolved (without completing a full investigation)	4		
No Authority to Investigate	42		
Declined on Discretionary Grounds	31		
Files Closed as of March 31, 2003			**639**
Files Carried Forward to April 1, 2003			**139**
			778

Table 6:
Operational Statistics by Departments, Boards, Agencies and Professional Associations

April 1, 2002 through March 31, 2003

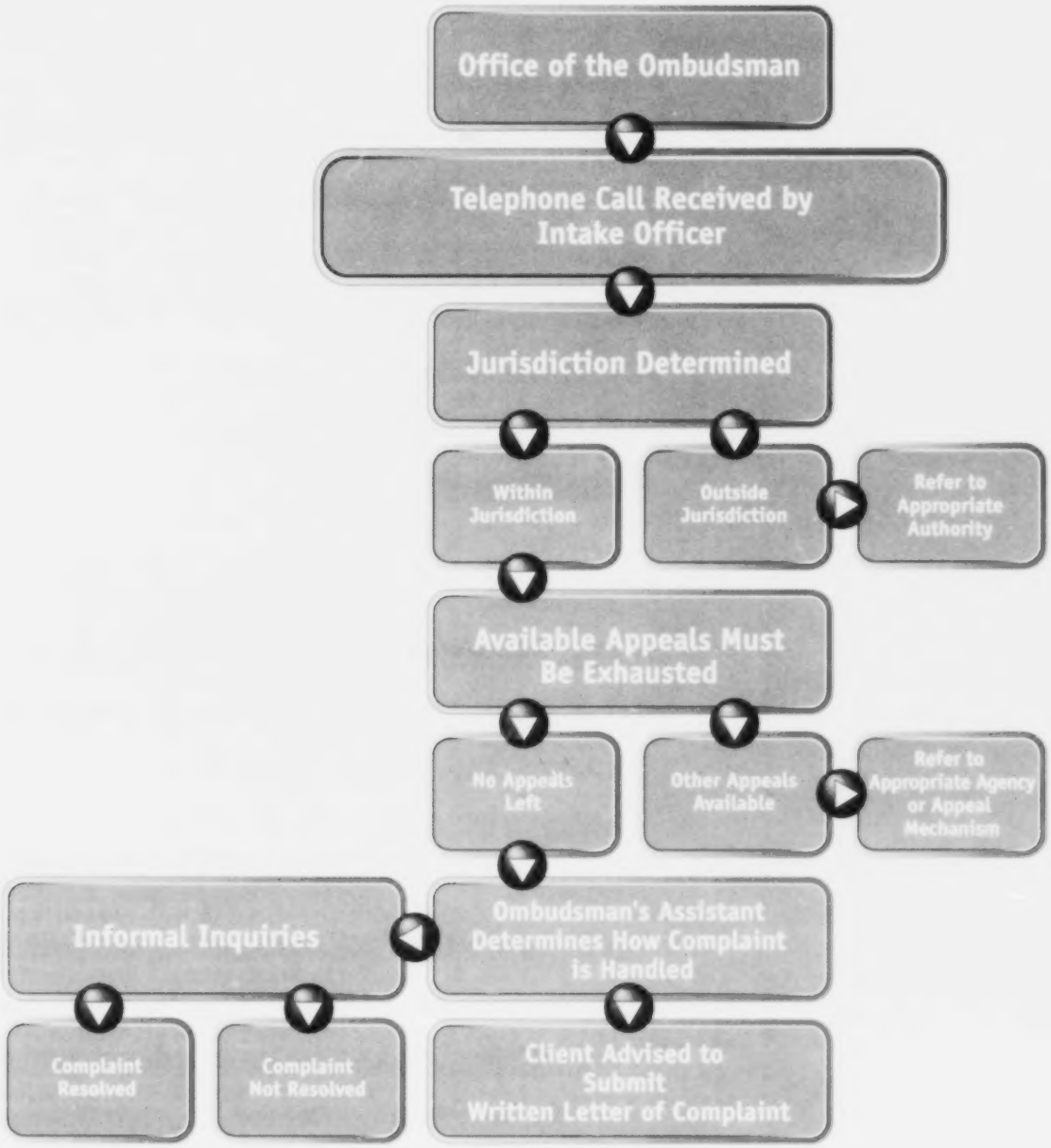
Investigated

Departments	FILES CARRIED FORWARD FROM PREVIOUS YEARS	ORAL COMPLAINTS	NEW FILES OPENED	TOTAL INVESTIGATED	SUPPORTED	PARTIALLY SUPPORTED	UNSUPPORTED	DISCONTIN
ABORIGINAL AFFAIRS & NORTHERN DEVELOPMENT		1						
AGRICULTURE, FOOD & RURAL DEVELOPMENT		11	4					
CHILDREN'S SERVICES	13	189	52	21	2	2	13	
COMMUNITY DEVELOPMENT	6	8	6	6	1	1	3	
ENERGY		0	2	1			1	
ENVIRONMENT	2	15	7	5	2	1	2	
FINANCE		3	2	1			1	
GOVERNMENT SERVICES	1	12	6	3		1	2	
HEALTH AND WELLNESS	4	32	10	4	2	1	1	
HUMAN RESOURCES & EMPLOYMENT	20	357	126	71	11	13	40	
INFRASTRUCTURE		4	2	1			1	
JUSTICE & ATTORNEY GENERAL	4	26	8	9		2	7	
Maintenance Enforcement Program	5	155	34	12	2	2	6	
LEARNING	4	29	14	6	3		2	
MUNICIPAL AFFAIRS		3	3					
REVENUE			1					
SENIORS	1	5	2	1		1		
SOLICITOR GENERAL	1	7	6	1			1	
Corrections	29	509	148	105	5	7	80	
SUSTAINABLE RESOURCE DEVELOPMENT	2	2	10	3			2	
TRANSPORTATION	5	30	14	8	1	4	3	
TOTAL: DEPARTMENTS	**97**	**1398**	**457**	**258**	**29**	**35**	**165**	
Boards & Agencies								
ACCOUNTING PROFESSION			2	1	1			
AGRICULTURE FINANCIAL SERVICES CORPORATION		6	3					
ALBERTA ALCOHOL & DRUG ABUSE COMMISSION		1						
ALBERTA ENERGY & UTILITIES BOARD	1	9	3	2			2	
ALBERTA GAMING & LIQUOR COMMISSION	1		1	1			1	
ALBERTA HUMAN RIGHTS & CITIZENSHIP COMMISSION	1	10	5	2		1	1	
ALBERTA OPPORTUNITY COMPANY		1						
ALBERTA PENSIONS ADMINISTRATION	1	4	2	1			1	
ALBERTA SECURITIES COMMISSION		1						
ALBERTA TEACHERS' RETIREMENT FUND BOARD	1			1			1	
APPEALS COMMISSION FOR ALBERTA WORKERS' COMPENSATION	19	26	41	29	0	1	27	
ATB FINANCIAL		21	11	4			4	
CRIMINAL INJURIES REVIEW BOARD	2							
HEALTH FACILITIES REVIEW COMMITTEE	2							
HEALTH PROFESSIONS		14	10	1				
LABOUR RELATIONS BOARD	2	4	1	2		1	1	
NATURAL RESOURCES CONSERVATION BOARD		4	3					
PERSONS WITH DEVELOPMENTAL DISABILITIES	2	2	2	2		2		
SURFACE RIGHTS BOARD/LAND COMPENSATION BOARD		2	2					
WORKERS' COMPENSATION BOARD	21	288	85	36	7	6	19	
TOTAL: BOARDS, AGENCIES & PROFESSIONAL ASSOCIATIONS	**53**	**393**	**171**	**82**	**8**	**11**	**57**	
TOTAL	**150**	**1791**	**628**	**340**	**37**	**46**	**222**	

Not Investigated

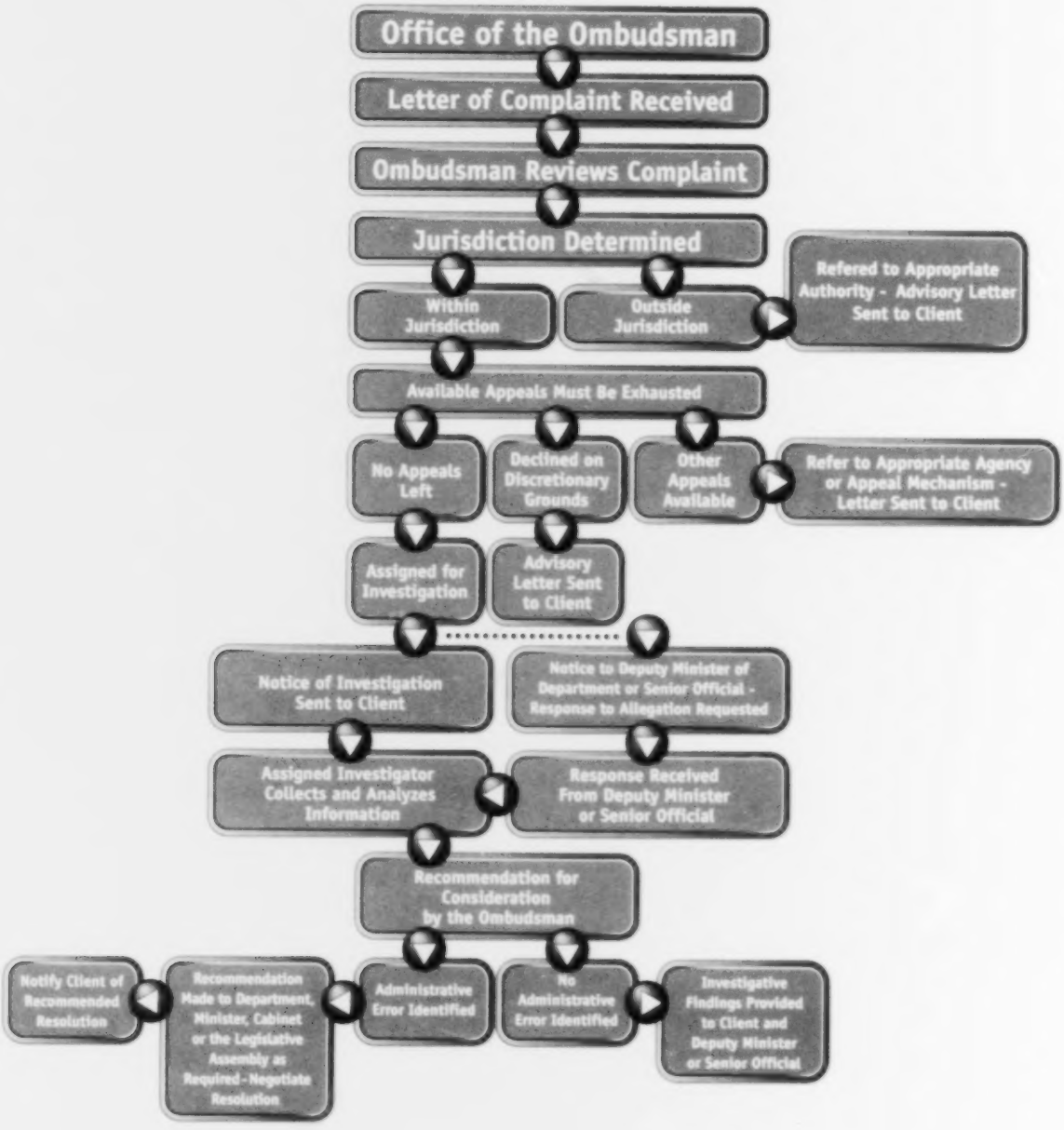
TOTAL NOT INVESTIGATED	INFORMATION REQUESTS	REFERRED TO OTHER REMEDY OR APPEAL	OTHERWISE RESOLVED	NO AUTHORITY TO INVESTIGATE	DECLINED ON DISCRETIONARY GROUNDS	FILES CLOSED	CARRIED FORWARD	Departments
								ABORIGINAL AFFAIRS & NORTHERN DEVELOPMENT
3	1			1	1	3	1	AGRICULTURE, FOOD & RURAL DEVELOPMENT
33	2	16		10	5	54	11	CHILDREN'S SERVICES
3	1	2				9	3	COMMUNITY DEVELOPMENT
1				1		2		ENERGY
3		2		1		8	1	ENVIRONMENT
1				1		2		FINANCE
3		2		1		6	1	GOVERNMENT SERVICES
7		5		1	1	11	3	HEALTH AND WELLNESS
41	7	26	1	2	5	112	34	HUMAN RESOURCES & EMPLOYMENT
						1	1	INFRASTRUCTURE
3	1	1		1		12		JUSTICE & ATTORNEY GENERAL
21		20		1		33	6	Maintenance Enforcement Program
7		6		1		13	5	LEARNING
1				1		1	2	MUNICIPAL AFFAIRS
1		1				1		REVENUE
1		1				2	1	SENIORS
2		2				3	4	SOLICITOR GENERAL
56	1	38	3	5	9	161	16	Corrections
4	1	2		1		7	5	SUSTAINABLE RESOURCE DEVELOPMENT
9	1	7		1		17	2	TRANSPORTATION
200	**15**	**131**	**4**	**29**	**21**	**458**	**96**	**TOTAL: DEPARTMENTS**
								Boards & Agencies
						1	1	ACCOUNTING PROFESSION
1				1		1	2	AGRICULTURE FINANCIAL SERVICES CORPORATION
								ALBERTA ALCOHOL & DRUG ABUSE COMMISSION
2		1		1		4		ALBERTA ENERGY & UTILITIES BOARD
1	1					2		ALBERTA GAMING & LIQUOR COMMISSION
3		1		1	1	5	1	ALBERTA HUMAN RIGHTS & CITIZENSHIP COMMISSION
								ALBERTA OPPORTUNITY COMPANY
1				1		2	1	ALBERTA PENSIONS ADMINISTRATION
								ALBERTA SECURITIES COMMISSION
						1		ALBERTA TEACHERS' RETIREMENT FUND BOARD
16	3	10			3	45	15	APPEALS COMMISSION FOR ALBERTA WORKERS' COMPENSATION
4	1	2			1	8	3	ATB FINANCIAL
							2	CRIMINAL INJURIES REVIEW BOARD
							2	HEALTH FACILITIES REVIEW COMMITTEE
8		1		6	1	9	1	HEALTH PROFESSIONS
1		1				3		LABOUR RELATIONS BOARD
2		1		1		2	1	NATURAL RESOURCES CONSERVATION BOARD
						2	2	PERSONS WITH DEVELOPMENTAL DISABILITIES
1				1		1	1	SURFACE RIGHTS BOARD/LAND COMPENSATION BOARD
59	4	50		1	4	95	11	WORKERS' COMPENSATION BOARD
99	**9**	**67**		**13**	**10**	**181**	**43**	**TOTAL: BOARDS, AGENCIES & PROFESSIONAL ASSOCIATIONS**
299	**24**	**198**	**4**	**42**	**31**	**639**	**139**	**TOTAL**

PROCESSING ORAL COMPLAINTS


Office of the Ombudsman
Telephone Call Received by Intake Officer
Jurisdiction Determined
Within Jurisdiction
Outside Jurisdiction
Refer to Appropriate Authority
Available Appeals Must Be Exhausted
No Appeals Left
Other Appeals Available
Refer to Appropriate Agency or Appeal Mechanism
Informal Inquiries
Ombudsman's Assistant Determines How Complaint is Handled
Complaint Resolved
Complaint Not Resolved
Client Advised to Submit Written Letter of Complaint

Investigative Procedures

PROCESSING WRITTEN COMPLAINTS


Office of the Ombudsman
Letter of Complaint Received
Ombudsman Reviews Complaint
Jurisdiction Determined
Within Jurisdiction
Outside Jurisdiction
Refered to Appropriate Authority - Advisory Letter Sent to Client
Available Appeals Must Be Exhausted
No Appeals Left
Declined on Discretionary Grounds
Other Appeals Available
Refer to Appropriate Agency or Appeal Mechanism - Letter Sent to Client
Assigned for Investigation
Advisory Letter Sent to Client
Notice of Investigation Sent to Client
Notice to Deputy Minister of Department or Senior Official - Response to Allegation Requested
Assigned Investigator Collects and Analyzes Information
Response Received From Deputy Minister or Senior Official
Recommendation for Consideration by the Ombudsman
Notify Client of Recommended Resolution
Recommendation Made to Department, Minister, Cabinet or the Legislative Assembly as Required - Negotiate Resolution
Administrative Error Identified
No Administrative Error Identified
Investigative Findings Provided to Client and Deputy Minister or Senior Official

Investigative Summaries

Termination of employment

A worker alleged Alberta Job Corps (AJC), an employment training program within the Ministry of Human Resources and Employment, unfairly terminated the worker's participation in the program. In addition, the worker was denied placement as the lead hand on a construction crew.

"This **incident** has **reinforced** my conviction that the Office of the Ombudsman is an **essential service** to Albertans who lack the legal, political and financial resources to settle a dispute with the Government of Alberta."

AJC provides a structured three-phase program which it offers to individuals who are seeking to become reliable and permanent employees in the workforce. AJC's employment training is not actual employment, but a form of hands-on teaching of various trades and activities which eventually assists individuals to secure permanent employment, providing the applicant meets the training criteria. The Ombudsman's investigation determined the worker did not complete the training course; therefore, AJC considered the worker's actions as job abandonment. As such, the worker was terminated from the program.

Furthermore, there was no evidence the worker was guaranteed the lead hand position. To be considered for a lead hand position, workers must meet specific program criteria including two months of successful employment. As the worker did not complete the first phase of training, qualifications were not met to be considered for a lead hand position.

Subrogated payments

While in receipt of Supports for Independence (SFI) benefits, a claimant complained the amount of maintenance payments the Maintenance Enforcement Program (MEP) subrogated to the Crown was incorrect.

The Ombudsman partially supported the claimant's concern as it was discovered MEP had erred administratively. The error occurred as a result of MEP forwarding maintenance payments to the Crown for approximately six months during which time the claimant was not receiving SFI benefits. MEP corrected the administrative error by adjusting the claimant's account.

Missing assets

An "heir locator" alleged the Public Trustee's office was not fulfilling its duty to use every means possible to locate all assets to which an estate is entitled. The locator claimed to have knowledge of assets to an estate for which the Public Trustee had been appointed the legal representative. The Public Trustee's office refused to enter into a contingency fee agreement to obtain the information pertaining to this asset.

The Ombudsman's Office found the Public Trustee's investigation into asset determination is on-going. The Ombudsman concluded the Public Trustee was acting administratively fairly and within its legislative authority by refusing to enter into a contingency fee agreement at this time.

Licensing requirements

A professional truck driver with a Class 1 driver's license complained the Driver Fitness and Monitoring Branch (DFMB) of Alberta Transportation unfairly revoked the driver's Class 1 designation and refused to re-issue it.

The Ombudsman's investigation was unable to support this complaint as it concluded the DFMB acted administratively fairly and correctly in revoking the driver's Class 1 license. Based on medical reports, the driver no longer met the medical requirements to qualify for this type of license. However, the DFMB informed the driver of the right to undergo further medical testing which may alter subsequent eligibility.

Additional financial benefits refused

A client complained the Assured Income for the Severely Handicapped Program (AISH) refused to provide additional financial benefits. Also, the Appeal Panel had unfairly upheld AISH's decision.

The Ombudsman's investigation did not support the funding issue as it revealed the

Investigative Summaries

client was receiving the maximum amount of financial benefit allowed under current legislation. The written decision rendered by the panel indicated it did not have the jurisdiction to hear matters regarding funding. This was incorrect as the panel does have the authority to handle funding issues. However, as the client was receiving the maximum amo nt of financial benefit, AISH regulations do not allow the panel to alter that amount.

The panel was reminded of the jurisdiction regarding AISH funding and the wording in the decision was amended.

Failure to correspond

A student wrote to the Ombudsman complaining the Certified Management Accountants of Alberta (CMAA) failed to respond to correspondence regarding accreditation for a course of studies.

The Ombudsman's investigation fully supported the complaint as it revealed CMAA failed to respond to the student's letter. As a result of the investigation, CMAA sent written correspondence to the student explaining in detail the rationale behind the decision regarding eligibility for accreditation.

Releasing personal information

An ATB Financial customer wrote the Ombudsman alleging the ATB improperly released personal information to the police without the benefit of a search warrant, failed to accept responsibility for the mishap and refused to implement a remedy the customer had requested.

The Ombudsman's investigation determined there was no evidence to support the allegation. The evidence generated during the investigation confirmed ATB had conducted a fair and reasonable inquiry into the customer's concerns.

During the course of the investigation, ATB's policy regarding customer inquiries was reviewed. The Ombudsman noted the policy did not stipulate at what point a customer should be referred to the police and what information ATB staff can release to the police without a search warrant. ATB concurred with the Ombudsman's recommendation to review and clarify its guidelines.

Rehabilitative equipment

A client objected to a decision made by the Motor Vehicle Accident Claims Program

(MVAC) to decline to pay the full cost of equipment to assist in rehabilitation and mobility. MVAC had determined the equipment was for the primary purpose of recreation; MVAC'S legislation does not provide for payment of recreational equipment.

After receiving a request from the client's doctor, MVAC conducted a review of the medical evidence and decided there was some rehabilitative benefit to the equipment. Based on that decision, MVAC agreed to pay 50% of the cost of the equipment. The client was advised the administrator's decision could not be appealed.

The Ombudsman concluded MVAC was fair and reasonable in deciding to pay 50% of the cost based on the evidence the equipment was not solely for recreational purposes. According to MVAC's legislation, the administrator's decision is final and there is no other avenue of appeal.

The Ombudsman did identify an administrative error regarding the quality of the correspondence going to MVAC recipients. Based on the Ombudsman's recommendations, MVAC agreed to implement changes in correspondence sent to recipients.

Environmental contamination

A retail property owner claimed Alberta Environment (AE) delayed taking action against the owners of a corporation which leased land from the property owner to operate a retail gasoline outlet. The corporation was to clean up the contamination caused by a leak in an underground storage container. The property owner also felt AE did not impose an adequate level of enforcement action to ensure the corporation return the contaminated site to its original condition.

The Ombudsman's investigation determined that without proof of an adverse effect, AE could not take earlier or more punitive action against the corporation. There was no proof any action by AE adversely affected health or the environment. The Ombudsman found AE took all the appropriate actions within its legislated authority and had no jurisdiction to assist the client to restore the surface site to a usable condition.

The Ombudsman did find fault with AE as there was considerable delay in responding to information it received about the underground contamination. AE has since rectified the problem of delay by hiring more staff to conduct investigations.

Investigative Summaries

Day care subsidies

A parent claimed the Day Care Program, a division within the Ministry of Children's Services, had unfairly refused to pay retroactive day care subsidies and did not inform the parent of the status of the subsidy.

The Ombudsman's investigation fully supported the parent's concern as it was determined the correspondence the Ministry sent to the parent was administratively unfair. The correspondence did not clearly establish time limitations, consequences for failing to submit the required information, the criteria for payment of retroactive day care subsidies and information regarding the appeal process.

Based on these findings, the Ombudsman recommended the Ministry re-evaluate the parent's day care subsidy application. The Ministry agreed to do so. The Ministry also agreed to change the content of the correspondence sent to parents to include information on time limitations, the process involved in requesting a retroactive day care subsidy, and information on the appeal process. The Ministry has reimbursed the day home on behalf of the parent and is currently reviewing the day care subsidy application procedure to make it less complicated.

Unpaid invoice

A contractor wrote to the Ombudsman complaining Alberta Learning had refused to pay for work completed on a project. Learning's refusal was based on the fact that a signed contract was not in place.

The contractor alleged Learning had stated a signed contract would be forthcoming and since there was a specific deadline to meet, encouraged the continuation of the work. Shortly after work started, Learning decided not to continue with the project because of fiscal constraints. Learning refused to pay the contractor for work completed.

The Ombudsman's investigation determined the contractor had obtained written correspondence from Learning assuring the contract would be signed and encouraging work to proceed. Even though the contract was not signed, the Ombudsman supported the contractor's complaint as the assurances received from Learning were sufficient evidence for the Ombudsman to recommend Learning reach a financial settlement with

the contractor. Learning accepted the Ombudsman's findings and the contractor was compensated for the services provided.

The contractor was pleased with the actions of the Office and stated *"this incident has reinforced my conviction that the Office of the Ombudsman is an essential service to Albertans who lack the legal, political and financial resources to settle a dispute with the Government of Alberta."*

Missing property

An inmate complained that while incarcerated in a provincial correctional centre, personal property in the care of property staff went missing. The inmate asked the provincial correctional centre to provide compensation for the missing items.

The Ombudsman fully supported this complaint as it was determined property staff had inadvertently placed this inmate's personal property with a second inmate's property. Subsequently, the personal property of both inmates was mistakenly given to the second inmate upon release.

The correctional centre agreed with the Ombudsman's findings and reimbursed the inmate for the lost items.

Health care premium subsidies

A client wrote complaining Alberta Health and Wellness (AHW) unfairly refused a request for a retroactive health care premium subsidy for two years in the early 1990s. The request was based on receipt of a delayed federal tax reassessment. The client also questioned the lack of information in correspondence received from AHW, the adequacy of the reasons provided for denying retroactive premium subsidy and the lack of an appeal process to review the decision.

The Ombudsman's investigation revealed AHW's policy states retroactive health care premium subsidies are only considered for two years prior to the current year. In this case, the client's income reassessment was delayed by the federal government beyond the two-year time period. The Ombudsman determined AHW had erred administratively as it failed to address the client's request for a retroactive health care premium subsidy, did not provide any contact information, stated an appeal process did not exist, and

Investigative Summaries

failed to sign the correspondence.

AHW agreed with the Ombudsman's observations and recommendations. AHW has corrected the administrative errors and reimbursed the client for the premium based on the adjusted taxable income. It is also in the process of implementing changes to the guidelines for correspondence sent to customers.

Unfair garnishee

A client wrote to the Ombudsman stating the Maintenance Enforcement Program (MEP) garnisheed 100% of earnings, inadequately responded to written correspondence regarding the garnishee, and failed to acknowledge receipt of correspondence from the client's lawyer.

The Ombudsman's investigation clearly identified administrative error as MEP had placed both a wage and a non-wage garnishee on the client, which effectively took 100% of the client's employment earnings. MEP has remedied the error and agreed to make corrections in its policy.

MEP acknowledged it did not adequately respond to the questions contained in the client's written correspondence and has since answered the client's questions regarding the garnishee.

The Ombudsman determined the client's lawyer did not correspond with MEP about the client's finances prior to the time the garnishees were put in place. Therefore, this portion of the complaint cannot be supported.

Benefits terminated

An Alberta resident wrote the Ombudsman claiming the Ministry of Human Resources and Employment through the Assured Income for the Severely Handicapped Program (AISH) unfairly terminated benefits due to an alleged failure to provide a personal financial statement. The resident also alleged the Citizens' Appeal Panel unfairly upheld AISH's decision to terminate benefits and the panel failed to properly consider information presented at the appeal hearing.

The investigation concluded there was administrative unfairness on the part of the Ministry in terminating the resident's AISH benefits due to the failure to provide financial information. The evidence

suggested the resident had a history of mental illness and it may have been the reason the resident had not complied.

On receipt of the Ombudsman's letter, the Ministry reviewed the file and agreed with the Ombudsman's conclusion. The Ministry assigned a social worker to assist in obtaining the required information and the resident's AISH benefits were reinstated retroactive to the termination date.

The Ombudsman's investigation found the panel did consider all the information in its possession. However, it was determined the Ministry failed to provide information about the resident's mental health status to the panel.

The Appeals Secretariat, which governs the actions of the panel, has accepted the Ombudsman's recommendation for all panels to list the documents presented in the course of an appeal hearing thereby ensuring all necessary documentation may be considered.

OFFICE OF THE
Ombudsman

report

NATURAL JUSTICE • ADMINISTRATIVE FAIRNESS • INDEPENDENT REVIEW

FINANCIAL STATEMENTS

FOR THE PERIOD APRIL 1, 2002 TO MARCH 31, 2003

Office of the Ombudsman

Financial Statements

As at March 31, 2003

OFFICE OF THE OMBUDSMAN

FINANCIAL STATEMENTS

As at March 31, 2003

Auditor's Report

Statement of Financial Position

Statement of Changes in Net Liabilities

Statement of Operations

Statement of Changes in Financial Position

Notes to the Financial Statements

Schedule 1 – Salary and Benefits Disclosure

Schedule 2 – Schedule of Allocated Costs

AUDITOR GENERAL
Alberta

AUDITOR'S REPORT

To the Members of the Legislative Assembly

I have audited the statement of financial position of the Office of the Ombudsman (the "Office") as at March 31, 2003 and the statements of changes in net liabilities, operations and changes in financial position for the year then ended. These financial statements are the responsibility of the Office's management. My responsibility is to express an opinion on these financial statements based on my audit.

I conducted my audit in accordance with Canadian generally accepted auditing standards. Those standards require that I plan and perform an audit to obtain reasonable assurance whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.

The Office has chosen to follow the corporate accounting policies and reporting practices established by Alberta Finance, including the following policy that is an exception from Canadian generally accepted accounting principles. Capital assets costing less than $15,000 are expensed in the year acquired and are not recognized as assets in the accompanying statement of financial position. Consequently, the annual amortization of these assets has not been recognized in the statement of operations. In my opinion, an amount of approximately $134,000 representing the net book value of these assets as at March 31, 2003, should be recognized as capital assets. This understatement of capital assets also results in a net understatement of expenses of approximately $25,000 for the year ended March 31, 2003.

In my opinion, except for the effects of the matter discussed in the preceding paragraph, these financial statements present fairly, in all material respects, the financial position of the Office as at March 31, 2003 and the results of its operations and the changes in its financial position for the year then ended in accordance with Canadian generally accepted accounting principles.

Fred J. Dunn FCA
Auditor General

Edmonton, Alberta
June 20, 2003

OFFICE OF THE OMBUDSMAN

STATEMENT OF FINANCIAL POSITION

AS AT MARCH 31, 2003

	2003	2002
Current assets:		
Cash	$ 300	$ 300
Advances	2,500	4,500
	$ 2,800	$ 4,800
Current liabilities:		
Accounts payable and accrued liabilities	$ 250,036	$ 174,968
Net liabilities	(247,236)	(170,168)
	$ 2,800	$ 4,800

The accompanying notes and schedules are part of these financial statements.

OFFICE OF THE OMBUDSMAN

STATEMENT OF CHANGES IN NET LIABILITIES

FOR THE YEAR ENDED MARCH 31, 2003

	2003	2002
Net liabilities at beginning of year	$ (170,168)	$ (160,722)
Net operating results	(1,577,076)	(1,476,365)
Net transfer from general revenues	1,500,008	1,466,919
Net liabilities at end of year	$ (247,236)	$ (170,168)

The accompanying notes and schedules are part of these financial statements.

OFFICE OF THE OMBUDSMAN

STATEMENT OF OPERATIONS

FOR THE YEAR ENDED MARCH 31, 2003

	2003		2002
	Budget (Note 4)	Actual	Actual
Expenses: (Note 4)			
Voted:			
Salary, wages, and employee benefits		$ 1,277,599	$ 1,180,626
Supplies and services		325,960	263,101
	$ 1,829,000	1,603,559	1,443,727
Valuation adjustments:			
Provision for vacation pay		(26,483)	32,638
Net operating results		$ (1,577,076)	$ (1,476,365)

The accompanying notes and schedules are part of these financial statements.

OFFICE OF THE OMBUDSMAN

STATEMENT OF CHANGES IN FINANCIAL POSITION

FOR THE YEAR ENDED MARCH 31, 2003

	2003	2002
Operating transactions:		
Net operating results	$ (1,577,076)	$ (1,476,365)
Non-cash items:		
Increase (decrease) in accrued vacation pay	(26,483)	32,638
	(1,603,559)	(1,443,727)
Increase (decrease) in accounts payable and accrued liabilities [a]	103,551	(23,192)
Cash used by operating transactions	(1,500,008)	(1,466,919)
Financing transactions:		
Net transfer from general revenues	1,500,008	1,466,919
Net cash provided	-	-
Cash, beginning of year	300	300
Cash, end of year	$ 300	$ 300

[a] Adjusted for accrued vacation pay

The accompanying notes and schedules are part of these financial statements.

OFFICE OF THE OMBUDSMAN

NOTES TO THE FINANCIAL STATEMENTS

YEAR ENDED MARCH 31, 2003

Note 1 Authority and Purpose

The Ombudsman is an officer of the Legislature who operates under the authority of the Ombudsman Act. The net cost of the operations of the Office of the Ombudsman (the Office) is borne by the General Revenue Fund of the Province of Alberta. Annual operating budgets are approved by the Standing Committee on Legislative Offices.

The Office promotes fairness in public administration within the Government of Alberta.

Note 2 Summary of Significant Accounting Policies and Reporting Practices

These financial statements are prepared in accordance with the following accounting policies that have been established by the Government of the Province of Alberta. The recommendations of the Public Sector Accounting Board of the Canadian Institute of Chartered Accountants are the primary source for these government policies. Recommendations of the Accounting Standards Board of the Canadian Institute of Chartered Accountants, other authoritative pronouncements, accounting literature, and published financial statements relating to either the public sector or analogous situations in the private sector are used to supplement the recommendations of the Public Sector Accounting Board where it is considered appropriate.

a) Reporting Entity

The reporting entity is the Office of the Ombudsman which is a legislative office, for which the Ombudsman is responsible.

The Office operates within the General Revenue Fund (the "Fund"). The Fund is administrated by the Minister of Finance. All receipts of the Office are deposited into the Fund and all disbursements made by the Office are paid from the Fund.

Note 2 Summary of Significant Accounting Policies and Reporting Practices (continued)

b) Basis of Financial Reporting

Expenses

Expenses represent the costs of resources consumed during the year on the Office's operations.

Pension costs included in these statements comprise the cost of employer contributions for current service of employees during the year.

Certain expenses, primarily for office space, incurred on behalf of the Office by government departments are not reflected in the Statement of Operations but are disclosed in Schedule 2.

Valuations Adjustments

Valuation adjustments represent the change in management's estimate of future payments relating to vacation pay.

Assets

New systems development below $100,000 and other capital assets below $15,000 are expensed as acquired. Assets acquired by right or donation are recorded at nil cost.

Net Liabilities

Net liabilities represent the difference between the recorded value of the assets of the Office and its liabilities.

Valuation of Financial Assets and Liabilities

Fair value is the amount of consideration agreed upon in an arm's length transaction between knowledgeable, willing parties who are under no compulsion to act.

The fair values of cash, advances, and accounts payable and accrued liabilities are estimated to approximate their book values.

Note 3 Lease Obligations or Commitments

The Office leases certain equipment under operating leases that expire on various dates to 2005. The aggregate amounts payable for the unexpired terms of these leases are as follows:

2004	$ 9,060
2005	1,990
Total	$ 11,050

Note 4 Budget

Expenses:

2002-03 authorized budget[a]	$ 1,829,000
2002-03 actual expenses (excluding valuation adjustments)	1,603,559
2002-03 unexpended (excluding valuation adjustments)	$ 225,441

[a] Legislative Assembly Estimates approved on April 19, 2003.

Note 5 Defined Benefit Plan (in thousands)

The Office participates in the multiemployer pension plans, Management employees Pension Plan and Public Service Pension Plan. The expense for these pension plans is equivalent to the annual contributions of $65 for the year ended March 31, 2003 (2002 - $63).

At December 31, 2002, the Management Employees Pension Plan reported a deficiency of $301,968 (2001 – surplus $5,338) and the Public Service Pension Plan reported an actuarial deficiency of $175,528 (2001 – actuarial surplus $320,487).

The Office also participates in two multiemployer Long Term Disability Income Continuance Plans. At March 31, 2003, the Bargaining Unit Plan reported an actuarial deficiency of $14,434 (2002 - $8,646) and the Management, Opted Out and Excluded Plan an actuarial deficiency of $3,053 (2002 - $2,656). The expense for these two plans is limited to employer's annual contributions for the year.

Note 6 Approval of Financial Statements

These financial statements were approved by the Senior Financial Officer and the Ombudsman.

Schedule 1

OFFICE OF THE OMBUDSMAN

SALARY AND BENEFITS DISCLOSURE

FOR THE YEAR ENDED MARCH 31, 2003

	2003			2002
	Salary [1]	Benefits and Allowances [2]	Total	Total
Senior official				
Ombudsman [3]	$ 119,633	$ 4,184	$ 123,817	$ 124,131

(1) Salary includes regular base pay, bonuses, overtime and lump sum payments.

(2) Benefits and allowances include the employer's share of all employee benefits and contributions or payments made on behalf of employees including pension, health care, dental coverage, group life insurance, short and long-term disability plans, and tuition fees.

(3) Automobile provided, no dollar amount included in benefits and allowances.

Schedule 2

OFFICE OF THE OMBUDSMAN

SCHEDULE OF ALLOCATED COSTS

FOR THE YEAR ENDED MARCH 31, 2003

	2003				2002
		Expenses - Incurred by Others	Valuation Adjustments[3]		
Program	Expenses[1]	Accommodation Costs[2]	Vacation Pay	Total Expenses	Total Expenses
Operations	$ 1,603,559	$ 194,276	$ (26,483)	$ 1,771,352	$ 1,671,345

(1) Expenses - Directly Incurred as per Statement of Operations, excluding valuation adjustments.

(2) Costs shown for Accommodation (includes grants in lieu of taxes), allocated by square footage.

(3) Valuation Adjustments as per Statement of Operations. Employee Benefits provision were allocated by employee.